

# SWIDLER BERLIN LLP

The Washington Harbour  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007-5116  
Phone 202.424.7500  
Fax 202.424.7647  
[www.swidlaw.com](http://www.swidlaw.com)

December 21, 2005

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TWB-204  
Washington, DC 20554

**Re: Ex Parte Communication**  
***In the Matter of Regulation of Prepaid Calling Card Services, WC Docket No. 05-68***

Dear Ms. Dortch:

Pursuant to 47 CFR § 1.1206(b), this letter is to report that Norm Rosenberg, Chief Financial Officer of IDT Telecom, Inc. (“IDT”); along with Tamar Finn and Russell Blau of Swidler Berlin LLP, and Harold Furchtgott-Roth, of Furchtgott-Roth Economic Enterprises, met yesterday with Michelle Carey, legal advisor to Chairman Martin, to discuss IDT’s views concerning the above-referenced docket. IDT discussed the points outlined in the attached handout.

This notice is being filed electronically in accordance with Commission rules in the above-referenced proceeding.

Sincerely,

*/electronically signed/*

Russell M. Blau  
Attorney for IDT Telecom, Inc.

cc: Michelle Carey  
Norm Rosenberg  
Tamar Finn, Esq.

# IDT Corporation

Ex Parte Presentation  
WC Docket No. 05-68

# About IDT

- IDT Corporation is a \$2.2 billion company that provides a variety of communications and media services.
- IDT is headquartered in Newark, New Jersey and is led by CEO Jim Courier, a former Member of Congress.
- IDT Telecom, a subsidiary of IDT Corporation, provides prepaid calling cards in the U.S. and in other countries, as well as a variety of other telecom services.

# Prepaid Information Services

- Prepaid cards no longer are limited to offering telecommunications services
- Some prepaid cards offer access to a menu of information content
  - News, Sports Scores
  - Weather
  - Travel conditions
  - Voice mail, e-mail
- Combination of information and calling capabilities creates added value for users
  - More than the sum of the parts
  - A premium product

# Bona Fide Information Services are Different than Advertisements

- AT&T Card in Declaratory Ruling only played a pre-recorded advertisement, whether the user wanted it or not
- Information content that the user selects, and that is not selected by the card provider or its sponsor, is a distinct service
- AT&T ruling should not affect classification of bona fide information services

# A “Level Playing Field” Already Exists

- AT&T’s level playing field arguments don’t hold water—
  - Declaratory Ruling only affects “advertising” cards, and affects all such cards equally regardless of the provider
  - AT&T has the same ability as any other company to offer a bona fide information service—and already does
  - FCC shouldn’t change its treatment of bona fide information services because of past problems caused by an entirely different service

# USF ISSUES

- Calling cards promote universal service by making international calling readily available to immigrants and others without traditional telephone connections
- Calling cards already bear a higher burden for USF than post-paid services
  - Applying USF rate of 8% to card with face value of \$10 results in \$.80 contribution
  - Most card providers only receive a percentage of the face value in revenue, e.g., 70%, making the effective USF rate much higher (in this example, \$0.80 out of \$7.00 is effectively 11.4%)

# USF Contributions

- Change in enhanced prepaid cards' contribution obligations (if any) should be coordinated with broader reform of contribution rules
  - Changing the rules twice within a few months or even a year would impose unnecessary costs and market disruption as customers would face big price swings
  - As in DSL docket, FCC could postpone effective date of any change in prepaid cards' contribution obligation for a certain number of months, unless USF contribution reform takes effect sooner

# USF Contributions (cont'd)

- If FCC does adopt new rules expanding prepaid card contribution obligations, it should increase LIRE exemption rate at the same time
  - In 2002, FCC increased LIRE from 8% to 12% based on projections that USF rate would rise above 8%
  - Recent estimates show USF rate may soon exceed 13%
  - FCC should increase LIRE to 15% now in anticipation of increased rate and make clear it applies to calendar year 2006 revenues
- Under 11% USF rate, calling cards already pay effective rate higher than current LIRE (in this example, \$1.10 out of \$7.00 is effectively 15.7%)
  - Because calling card revenues are largely international, increasing LIRE will benefit the low income and immigrant consumers who would otherwise be hit with a higher effective USF contribution rate

# Implementation issues

- If rules are changed, effective date should be postponed to allow repricing of cards
  - Cards already in the stream of commerce have been priced based on current contribution rules.
  - Because these cards have been sold to distributors (and sub-distributors, etc.) they cannot be recalled or repriced.
  - The Commission has built in a "grace period" beyond the effective date of regulations in comparable cases (e.g., payphone compensation, access charge reforms) and should, at a minimum, do so here.